

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

TONY EPPENGER,

Petitioner,

Case No. 20-cv-1390-pp

v.

CHRIS BUESGEN,¹

Respondent.

**ORDER DENYING PETITIONER'S MOTION TO PROCEED WITHOUT
PREPAYING FILING FEE (DKT. NO. 2)**

On September 8, 2020, the petitioner, who is incarcerated at Stanley Correctional Institution and is representing himself, filed a petition for writ of *habeas corpus* under 28 U.S.C. §2254 challenging his 1991 conviction in Milwaukee County Circuit Court for first-degree intentional homicide. Dkt. No. 1; State v. Tony Eppenger, Milwaukee County Case No. 1990CF903187 (available at <https://wcca.wicourts.gov>). With his petition, the petitioner filed a motion for leave to proceed without prepaying the filing fee. Dkt. No. 2.

There is a \$5.00 filing fee for filing a *habeas* petition. 28 U.S.C. §1914(a). The petitioner asked the court to allow him to proceed without prepaying that fee. Dkt. No. 2. Section 1915(a)(1) of Title 28 allows a court to authorize the

¹ Under Rule 2 of the Rules Governing Section 2254 Cases, “[i]f the petitioner is currently in custody under a state-court judgment, the petition must name as respondent the state officer who has custody.” The petitioner is incarcerated at Stanley Correctional Institution. <https://appsdoc.wi.gov/lop/home.do>. This order reflects Warden Chris Buesgen as the respondent.

commencement of a lawsuit without prepayment of the filing fee if the person “submits an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor.” The petitioner’s request does not indicate whether he has any assets—a bank account, retirement account, investments, real estate or other assets of value. Dkt. No. 2 at 2. His trust account statement shows that as of September 1, 2020, the petitioner had an end balance of \$599. Dkt. No. 3 at 1.

The court will deny the petitioner's motion and give him a deadline by which to pay the \$5.00 filing fee. If the petitioner does not either pay the \$5.00 filing fee or ask for more time to do so by the deadline the court sets, the court will dismiss the case. If the petitioner pays the filing fee by the deadline, the court will screen the petition under Rule 4 of the Rules Governing Section 2254 Cases.

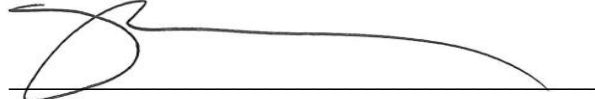
The court **DENIES** the petitioner's motion for leave to proceed without prepaying the filing fee. Dkt. No. 2.

The court **ORDERS** that by the end of the day on **June 24, 2022**, the petitioner must either pay the \$5.00 filing fee or ask for an extension of time to do so. This means that the petitioner must either pay the fee or file the motion for extension in time for the court to *receive* it by the end of the day on **June 24, 2022**. If the court does not receive either the filing fee or a motion by the end of the day on June 24, 2022, the court will dismiss this case for failure to pay the filing fee. If the court receives the filing fee, it will order the respondent to answer or otherwise respond.

The court **DIRECTS** the Clerk of Court to update the docket to reflect that Chris Buesgen is the correct respondent.

Dated in Milwaukee, Wisconsin this 20th day of May, 2022.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'P. Pepper', is written over a horizontal line.

HON. PAMELA PEPPER
Chief United States District Judge